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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2013-828

11 **GRACE MARCIA MARTIN BORROMEIO**
12 **aka Grace M. Borrromeo**
13 **1937 Boxey Drive**
San Jose, CA 95131

A C C U S A T I O N

14 **Registered Nurse License No. 712957**

15 Respondents.
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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 24, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number 712957 to Grace Marcia Martin Borrromeo, aka Grace M. Borrromeo
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on November 30, 2014, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated:

3 4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part,
4 that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section **2764** of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license.

10 **STATUTORY AND REGULATORY PROVISIONS**

11 6. Section **2761** of the Code states, in pertinent part:

12 The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the following:

15 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
16 functions.

17 ...

18 7. California Code of Regulations, title 16, section **1442**, states:

19 As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
20 the standard of care which, under similar circumstances, would have ordinarily been exercised by
21 a competent registered nurse. Such an extreme departure means the repeated failure to provide
22 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
23 situation which the nurse knew, or should have known, could have jeopardized the client's health
24 or life.

25 8. California Code of Regulations, title 16, section **1443**, states:

26 As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
27 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
28 exercised by a competent registered nurse as described in Section 1443.5.

9. California Code of Regulations, title 16, section **1443.5** states:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

COST RECOVERY

10. Section **125.3** of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **FACTUAL SUMMARY**

2 11. On or about December 7-8, 2011, Respondent was employed as a registered nurse on
3 the medical/surgical floor at the Coalinga Regional Medical Center in Coalinga, California.
4 Respondent was assigned to provide nursing care to patient A.¹ Patient A was admitted to the
5 medical/surgical floor at 20:12 hours on December 7, 2011. Patient A had a significant history of
6 cardiac issues. Patient A's physician had ordered that Patient A's vital signs be assessed every
7 four hours. Any abnormal vital signs were to be reported to patient A's physician.

8 12. Patient A was due to have his vital signs checked at midnight. Respondent, however,
9 instructed the certified nursing assistant on duty not to do so. Patient A's vital signs therefore
10 were not checked as required at that time.

11 13. At 01:31 hours, Respondent administered Dilaudid² intravenously to patient A.
12 Respondent failed to adequately assess patient A's vital signs either before or after administration
13 of the medication, in violation of the applicable standard of care.

14 14. At 03:45 hours, patient A was found to be unresponsive. He could not be
15 resuscitated, and subsequently expired.

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Gross Negligence/Incompetence)

18 15. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
19 she acted with gross negligence and/or incompetence, as set forth above in paragraphs 11-14.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct)

22 16. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
23 she acted unprofessionally, as set forth above in paragraphs 11-14.

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26 ¹ The identity of patient A is withheld to protect patient privacy.

27 ² Dilaudid is an opioid analgesic. It is associated with side effects involving respiratory
28 depression and cardiac issues.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 712957, issued to Grace Marcia Martin Borromeo, aka Grace M. Borromeo;
2. Ordering Grace Marcia Martin Borromeo, aka Grace M. Borromeo, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: March 27, 2013

for Grace Bern
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant